

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1196 OF 2005

Shri Satish Kashinath Sharma

Petitioner

vs.

1.The Chief Officer,
Igatpuri Municipal Council & ors.

Respondents

Mr.P.N.Joshi for the petitioner.

**CORAM : R. M. LODHA &
R. S. MOHITE,JJ.**

DATED : 14th March 2005

P.C.

Heard Mr.P.N.Joshi, the learned counsel for the
petitioner.

2. The petitioner seeks to challenge the order dated 21st June 2003 passed by the Regional Director, Municipal Administration-cum-Divisional Commissioner, Nasik Division, Nasik whereby the Regional Director dismissed the petitioner's appeal purportedly filed under section 308(3) of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Townships Act, 1965 challenging the order of the Collector dated 19th September 2002 under Section 308(1) of the Act of 1965.

3. It is not necessary to go into the merits of the order dated 21st June 2003 and the diverse aspects

raised in the writ petition as, in our view, the challenge to the order dated 19th September 2002 at the instance of the present petitioner was wholly misconceived before the Director, Municipal Administration as well as before us. If there was any illegality committed by the Collector in cancelling the resolution passed by the Municipal Council, Igatpuri by invoking section 308(1) of the Act of 1965, the only affected person would be the Municipal Council, Igatpuri and none else. Mr.P.N.Joshi, the learned counsel, however, submitted that the petitioner was authorised by the Municipal Council, Igatpuri to challenge the order dated 19th September 2002 passed by the Collector. We are afraid, section 8 of the Act of 1965 makes it abundantly clear that the Municipal Council constituted under Section 3 of the Act of 1965 shall sue or be sued through its Chief Officer. If the Municipal Council, Igatpuri was aggrieved by the order of the Collector passed on 19th September 2002, the challenge to the said order under Section 308(3) could have only been in the name of the Municipal Council, Igatpuri through the Chief Officer. The appeal preferred by the present petitioner in his own name before the Regional Director under Section 308(3) was thus not competent. The petitioner had no locus in challenging the order of the Collector dated 19th September 2002. The appeal before the Director, Municipal Administration was wholly

misconceived and so is the present writ petition.

4. Dismissed in limine.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)